IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

Writ Petition No. 5165 (SS) of 2001
Old Number
Writ Petition No. 9270 (SS) of 1992

Smt. Kiran Negi,
W/o Sri Yashwant Singh,
R/o Sadar Bazar, Haldwani,
(Anandbagh, Haldwani),
District- Nainital.

…… Petitioner

Versus

1. State of U.P.
2. Basic Shiksha Adhikari, Nainital
3. Deputy Inspector of Schools, Nainital.
4. Head Master, Primary Pathshala, Beri Parao, Vikas Khand, Haldwani Nainital.
5. Committee of Management, Primary Pathshala, Beri Parao, Vikas Khand, Haldwani Nainital through its Manager.

…….Respondents

Hon'ble M.M. Ghildiyal, J

Heard Sri Sarvesh Agarwal, learned counsel for the petitioner and Sri Paresh Tripathi, learned Brief Holder for State of Uttarakhand on behalf of respondents no. 1 to 4.

By means of this writ petition, the petitioner has prayed for the following reliefs:

a. *Issue a writ order of direction in the nature of Certiorari, quashing the order dated 27.11.1991 (Annexure no. 2) respondent no. 3.*

b. *Issue a writ, or direction in the nature of Mandamus directing the respondents not to interfere in*

the petitioner's functioning as Assistant Teacher in Primary Pathshala, Beri Parao, Vikas Khand, Haldwani, Nainital.

c. *Issue a writ order or direction in the nature of Mandamus directing the respondents to pay the entire arrears of salary to the petitioner with effect from 01.07.1991 upto date and continue to pay regular emoluments month by month.*

d. *Issue any other suitable order or direction in this Hon'ble court may deem fit and proper in the circumstances of the case*

e. *Award the cost of the writ petition.*

Vide impugned order dated 27.11.1991 District Inspector of Schools, Nainital, has refused to accord permission to the petitioner to join her duty in the Institution on the ground that petitioner was appointment as Assistant Teacher in Primary Schools, on 25.02.1984 and from the date of her appointment till 31.08.1988, she remained on medical leave for 213 days and thereafter, she remained on without pay for 476 days. After 31.08.1988, neither she attended the office nor she has made any application for leave. She was also given warning to join her duty in the Institution but she has failed to join, consequently, she was not permitted to join the Institution.

Within a period of about four years from the date of her joining, petitioner has availed leave for 213 days on medical ground and 476 days on leave without pay. Petitioner, in fact, proved herself deadwood for the department, consequently, in my opinion, impugned

order dated 27.11.1991 is perfectly correct and wants no interference of this court under Article 226 of the Constitution of India.

Writ petition lacks merit and as such, is dismissed. All the pending applications stands rejected. No order as to costs.

(M.M. Ghildiyal, J

July 09, 2007
SKsharma